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# Learning by Doing: The EU's Transformative Power and Conflicts in the Western Balkans

*Julija Brsakoska Bazerkoska, Mišo Dokmanović*

## Abstract

*The paper analyzes the European Community/ European Union experience in the Western Balkans in the period from 1990 onwards in different context in order to assess different mechanisms which the European Union has gained with building the Common Foreign and Security Policy and within the Enlargement Policy in the process of conflict prevention and conflict resolution. Additionally, the paper makes an assessment of the EU's involvement in the conflict prevention and conflict resolution in the Balkans after the Stabilization and Association Process was launched in 1999.*

*The authors argue that in the case of the military conflicts in the former Yugoslavia, when the European Community was confronted with serious and hard security issues at the very beginning of creating its Common Foreign and Security Policy and in a period of time when the region was not part of the enlargement process, the Community and the Union afterwards proved to be extremely ineffective. In the second part, through three case studies, the paper demonstrate that with the combined use of CFSP mechanisms and SAP, positive examples of the EU acting as a provider of peaceful dispute settlement in the Western Balkans have been established.*

## KEY WORDS:

*European Union, Common Foreign and Security Policy, Stabilization and Association Process, Western Balkans, Conflict prevention and conflict resolution*

## Introduction

The words of the Iron Chancellor Otto von Bismarck are relevant even today: "Europe today is a powder keg and the leaders are like men smoking in an arsenal ... A single spark will set off an explosion that will consume us all ... I cannot tell you when that explosion will occur, but I can tell you where ... Some damned foolish thing in the Balkans will set it off." (Navrozov 2008). In the heart of Europe, instability in the Balkans entails dangerous spill-over effects into the Union in terms of organized crime, refugee flows and migratory pressures amongst others. Therefore, conflict prevention and conflict resolution in its neighbourhood constitute key external priorities of the European Union (EU).

Since the EU's approach to violent ethnic conflicts has been born and bred in the Balkans, this paper will attempt to compare the EU's experience in this region throughout time and in different contexts in order to assess the different mechanisms which the EU has employed in formulating the Common Foreign and Security Policy (CFSP) and within the Enlargement Policy in the process of conflict prevention and conflict resolution. It covers the period from 1990 onwards, when the dissolution of the former Socialistic Federal Republic of Yugoslavia (SFRY) began. It will focus on the European Community's (EC) and afterwards the EU's role in the conflicts in former Yugoslavia in the period when the CFSP was created. The paper will then assess the EU's involvement in conflict prevention and conflict resolution in the Balkans after the Stabilization and Association Process (SAP) was launched in 1999. It shows that the EU changed its role in the region due to the fact that the newly formed independent republics existing in a completely different political context ten years later, have greater incentive to become EU member states and be part of the EU market, but also due to the fact that the EU was equipped with several mechanisms that made it more effective when it came to the institutional shortcomings of the past with the Amsterdam Treaty which entered into force in 1999, and afterwards with the Lisbon Treaty entering into force in 2009.

The authors argue that in the case of the military conflicts that followed the SFRY disintegration, when the EC was confronted with serious security

issues at the very beginning of creating its CFSP and in a period when the region was not part of the enlargement process, the EC and EU afterwards proved to be extremely ineffective. The lack of unity among member states on the issues connected to the conflicts in SFRY also contributed towards the ineffectiveness of EC/EU actions. Moreover, without the proper mechanisms to act, the leverage of the EC and afterwards the EU had little impact on the process of resolving the crisis. The EC/EU was unable to use its enlargement policy in the case of former Yugoslavia also because of the fact that the country had no interest in becoming an EC member state and neither did its republics. In the second part, through three case studies, the paper will show that with the combined use of CFSP mechanisms and SAP, positive examples of the EU acting as a provider of peaceful dispute settlement in the Western Balkans are established. Under the changed circumstances ten years later and in a different context in the Balkans, using its conditionality policy and the 'proverbial carrot' of candidate status, the EU was instrumental in brokering the Ohrid Framework Agreement which ended the conflict in the Republic of Macedonia in 2001; the Belgrade Agreement in 2002 that prevented the Federal Republic of Yugoslavia from violently falling apart and having a knock-on effect on the weak balance in Kosovo; and, finally, the landmark Brussels Agreement on normalizing the relations between Serbia and Kosovo. The latter agreement closed one of the most complicated chapters in the collapse of Yugoslavia. The prospect of concluding a Stabilization and Association Agreement and eventual EU membership for the newly formed independent states of former Yugoslavia, which did not have the big market of the former Federation to rely on, was used as strong leverage in persuading the parties to engage in negotiations that would lead to conflict prevention and conflict resolution. One of the main obstacles the EU faced in this process as well was the disunity of its member states – in the case of the dissolution of SFRY and in the Kosovo conflict. Because of a lack of unanimity among the member states, it cost the EU more time in the process of conflict prevention and conflict resolution. Finally, through analysis of the EU's conflict prevention and conflict resolution role in the Western Balkans after the creation of the SAP, the paper will also assess the role of the EU's High Representative and afterwards the role of the High Representative of the Union for Foreign Affairs and Security Policy in the process of coordinating the EU's activities in the region.

## EC/EU role in the conflicts following the dissolution of SFRY

The former Yugoslav federation comprised six constituent republics: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia. Serbia also had two autonomous provinces: Kosovo and Vojvodina. Although nationalistic sentiment was present throughout Yugoslav history, it was efficiently suppressed by Tito's regime. Following his death in 1980, there was a resurgence of nationalist sentiment in the republics, which resulted in a demand for transformation of the country's political framework. By the end of 1990, inter-republic negotiations had been initiated with the sole purpose of finding a mutually acceptable solution for their future. Unfortunately, their divergent plans for the future, from independence of the republics (Slovenia and Croatia), establishing a looser confederation of independent republics (Bosnia and Herzegovina and Macedonia) and eventually federation (Serbia and Montenegro) could not be conciliated through negotiations and resulted in the biggest military conflict in Europe since World War II.

However, the main factor that led to this conflict was the fact that the borders of the republics did not correspond to the distribution of the various nationalities within the SFRY that also suffered from deep-seated historic antagonisms. The presence of a significant Serbian minority in Croatia and Bosnia and Herzegovina, a Croatian minority in Bosnia and Herzegovina, and moreover, the Serbian policy to establish a 'greater Serbia' by annexing Serbian-populated territory from within Croatia and Bosnia and Herzegovina was the other factor that contributed to the lengthy multi-ethnic conflicts (Brsakoska Bazerkoska 2016).

In June 1991, when Slovenia and Croatia declared their independence, strong opposition from the Serb-dominated federal government and from Serbia, led to a military intervention by federal forces in Slovenia.<sup>1</sup> Almost immediately after the war ended in Slovenia, military conflict broke

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<sup>1</sup> The Slovenian independence war lasted ten days, from 27 June to 7 July 1991, and ended with the signing of the Brioni Agreement, brokered under the political sponsorship of the European Community.

out in Croatia.<sup>2</sup> This escalating war continued throughout Bosnia and Herzegovina.<sup>3</sup> Only the Republic of Macedonia gained independence by peaceful means, while the two other republics – Serbia and Montenegro – formed a federation known as the Federal Republic of Yugoslavia in 1992.

The interest of the EC for the future of Yugoslavia and the prevention of the potential conflicts among the republics was present from the very beginning of the crisis in the first half of 1991. The process of dissolution of Yugoslavia matched with one of the biggest transformations of international politics in the twentieth century. It seemed that the key political actors, including the EC, were overwhelmed with the new situation that unfolded in a matter of months – from the fall of the Berlin wall and the unification of Germany to the beginning of the transition of communist societies to democracy and a market economy. Europe was strongly focused on the process of democratic transformation in Eastern Europe and at the beginning the situation in Yugoslavia was perceived as a collateral issue compared to the other emerging challenges such as the dissolution of the Soviet Union or the Gulf War. Additionally, the unfolding of the Yugoslav crisis coincided with the final negotiations for the design of the Treaty of the European Union, a document that based the future of the EC on the three-pillar system that included the Common Foreign and Security Policy. All these factors made the EC/EU more reliant on help from outside (mainly from the US), than capable of relying on the newly formed mechanisms.

During the EPC Ministerial meeting held on 26 March 1991, a conclusion that the preservation of SFRY represented the primary goal of the Community was adopted. The EC had continuously monitored the deteriorating situation in the country (EC 1991a; 1991b) and on 29 May 1991, Jacques Santer, Luxembourg's Prime Minister and at the time holding the presidency of the Council of the European Community, and Jacques Delors, the President of the European Commission, met with leaders in Yugoslavia with an offer of accelerated EC membership and considerable financial assistance in return for a peaceful solution to the

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2 The Croatian independence war lasted until 1995 and led to hundreds of thousands of refugees and revived the memories of the brutalities of World War II.

3 Following Bosnia and Herzegovina's declaration of independence the war in Bosnia and Herzegovina started in 1992 and ended with the Dayton Peace Agreement in 1995. The brutality of the war in Bosnia was accompanied with massive crimes against humanity and war crimes, such as widespread killings, rapes, torture, deportation to camps and the siege of towns.

crisis (Gligorov 2000). The EC membership was not a priority for the leaders of the Yugoslav republics at that time, when heated nationalistic rhetoric was ongoing. In June 1991, Slovenian and Croatian unilateral acts of independence were passed. This only further escalated tensions.

After a number of unsuccessful attempts and appeals to maintain peace (EC 1991c; 1991d; 1991e), on 27 August 1991 the EC decided to convene a Peace Conference<sup>4</sup> and to establish an Arbitration Commission that was expected to enhance the rule of law in the settlement of differences relating to the Yugoslav crisis (EC 1991f). The Arbitration Commission consisted of the presidents of the Constitutional courts of Belgium, France, Germany, Italy, and Spain. In the period from 1991-1993 the Commission adopted 15 legal opinions including opinions regarding the recognition of the Yugoslav republics. The new EC approach represented a result of the determination to avoid sending mixed and often conflicting signals in respect to the solution of the crisis; in particular this referred to Germany, as well as the tendency to limit potential US involvement in the overall process. Additionally, the Peace Conference represented an opportunity to test the new emerging Common Foreign and Security Policy.

Lord Carrington presided over the Conference on Yugoslavia, which commenced on 7 September 1991. However, as a result of Serbian and Montenegrin discontent, Lord Carrington's peace plan draft was later rejected and consequently, the last opportunity to preserve Yugoslavia as a sovereign state or as a union of states failed.

Bearing in mind the unsuccessful attempts to bring an end to the conflicts in former Yugoslavia in the second half of 1991 and the failure to reach a peace agreement at the Peace Conference on Yugoslavia, the EC decided to open the procedure of recognition of the "new" states. During the Ministerial meeting held from 15-16 December 1991, the EC adopted two documents regarding the international recognition of the new states: the Guidelines for the Recognition of New States in Eastern Europe and the Soviet Union, and the Declaration Concerning the Condition for Recognition of New States.

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4 The Peace Conference brought together the Federal Presidency and the Federal Government of Yugoslavia, the presidents of the six Yugoslav republics, the President of the EC Council, and representatives of the EC Commission and EC member states.

These two documents, together with the Arbitration Commission, created the mechanism which managed the process of recognition of all Yugoslav republics. Four Yugoslav republics – Bosnia and Herzegovina, Croatia, Macedonia and Slovenia – have submitted requests for international recognition. However, on the last day of the deadline, before the official opinion of the Arbitration Commission was prepared, Germany announced the “Christmas recognition” of Slovenia and Croatia. Undoubtedly, this defiant and controversial approach undermined the EC’s struggle to establish a Common Foreign and Security Policy and in particular its attempt to prove to the international community, and mainly the United States, that Europe was able to maintain a joint position on key international challenges.

On 11 January 1992 the Arbitration Commission handed down the opinions regarding the applications of the four Yugoslav republics in which it concluded that only Slovenia and Macedonia had fulfilled the recognition criteria. Still, on 15 January 1992 the EC Presidency decided to recognize Slovenia and Croatia only (EC 1992a). Bosnia and Herzegovina was recognized as an independent state by the EC on 6 April 1992 (EC 1992b). As Shaw suggested, the recognition of Croatia and Bosnia represented a clear example of premature recognition due to the fact that neither country had effective control of its territory – Croatia did not control one-third of its territory, and before the signing of the Dayton peace agreement Bosnia did not control almost 70 per cent of its territory (Shaw 1997).

Under intense pressure from Germany, the EC and its member states recognised Croatia and Slovenia as independent states. By doing so, they partly ignored the opinion issued from its own Arbitration Commission that Macedonia and Slovenia were the only two republics that met all the criteria to be recognised as new states. According to Blockmans (2014), “the political impact of these measures on the dissolution and the war in Yugoslavia was significant, because it isolated and punished the Serb/Montenegrin-dominated federal authorities and it also ended the European stewardship of the international efforts to negotiate a peaceful settlement to the conflict, due to Serbia’s distrust of the EC as a mediator.”

## EU role after 1995 - a need for a stronger US presence

It became evident that the positions of the key European states were dominating the situation rather than there being a unified joint response. In particular, this refers to the German Christmas recognition of Slovenia and Croatia which by-passed the Arbitration Commission mechanism. It could be concluded that the EC policy in respect to the beginning of the Yugoslav crisis could be determined by the following factors: a lack of mechanisms for a joint European response; an inclination of domination of a few European countries in particular Germany; and finally, the EC/EU membership not being an incentive for the newly-formed states.

For that reason, the US decided to make an effort to end the war raging through the territory of the former SFRY. In November 1995 in Dayton, after four years of war and numerous atrocities, the peace initiative that was undertaken by the United States supported by the UN Security Council and the Contact Group, finally resulted in a ceasefire agreement.

Being unable to deal with the conflicts in its backyard was seen as a failure for the EU. Although it was freshly equipped with the Common Foreign and Security Policy and having confidence that "the hour of Europe has dawned"<sup>5</sup> (Gligorov 2000), the EU was incapable of stopping the brutal breakdown of former Yugoslavia in the early 1990s (Blockmans 2014).

Since the EU was unable to put in effect the newly defined CFSP to deal with the war in Yugoslavia, it prompted the EU leaders to rethink the mechanisms in the treaties, in order to strongly engage the EU in global peace diplomacy. The Treaty of Amsterdam redefined both the instruments and the decision-making procedures of the Common Foreign and Security Policy. One of the novelties introduced by the Treaty of Amsterdam which pushed the EU's diplomatic role on the international scene was the introduction of the High Representative for the CFSP, who at the same time held the position of the Council's Secretary General.

Once again, the changes and innovations within the EU, this time with the Treaty of Amsterdam, were put to the test with the new violent conflict

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5 In May 1991, Jacques Poos, one of the negotiators of the Brioni Agreement that ended the ten-day war in Slovenia in 1991, declared: "The hour of Europe has dawned."



at the end of the 1990s in Kosovo. The conflict in Kosovo and its struggle for self-rule began in 1998. However, it was too soon for all the novelties introduced by the Treaty of Amsterdam to be put into action especially given the violence of the conflict. Therefore, the EU once again needed US assistance in the resolution of the conflict. The conflict ended one year later with the intervention of the North Atlantic Treaty Organization (NATO) in Kosovo.

Once the war in former Yugoslavia was over, the EU was presented with a new opportunity in the Balkans. The political landscape in the Balkans had changed – the new states which did not rely on the large market of the Federation, exhausted by the war that raged on their territories for a decade, presented the EU with a completely different political context for its conflict prevention and conflict resolution mechanisms. The EU, on the other hand, was now equipped with the CFSP mechanisms, as well as with the appeal of the enlargement policy which proved to be very successful in the Eastern European countries. And finally, by introducing the High Representative for the CFSP, the role of the EU in conflict prevention and conflict resolution in the Balkans was strengthened. All these factors – the changed political context in the Balkans, together with the higher EU leverage provided through its newly introduced mechanisms – resulted in a more effective engagement of the EU. The next part of the article will analyze the role of the EU in conflict prevention and conflict resolution in the Balkans in a changed environment for the newly-formed countries and for the EU.

## **The EU's second chance in the Balkans**

### **Introducing the SAP - the additional tool for conflict prevention and conflict resolution?**

In view of the EU's acknowledged failure to deal with the unfolding tragedy of Yugoslavia's disintegration in the 1990s, the EU was determined to contribute to the stabilization of the region and to restore external credibility

in the Balkans, which had been lost during the wars in the ex-Yugoslav republics. The success in the Western Balkans was long perceived as a test for the effectiveness of EU foreign policy. Therefore, the EU designed the process of Stabilization and Association especially for the Western Balkan countries. It was tailored in a manner to be suitable for the process of post-communist transition, post-war reconciliation and EU integration.

In 1993, at the Copenhagen Council, the EU member states agreed that the Central and East European countries could join the EU and put forward certain criteria to be met before accession (European Council 1993). The Copenhagen criteria have been accepted as the main point of reference when assessing the success of the individual candidates' countries development and progress towards EU membership. In this way, the EU had great influence on the outcome of the reform efforts in the individual candidate countries. The most important part of that process is the fact that, apart from the long-term membership perspective, the enlargement process brings numerous short and medium-term benefits. Those benefits include financial aid, policy advice, political cooperation, technical assistance as well as visa liberalisation.

The enlargement context in the Western Balkans has changed, mainly because the region is characterized by legacies of war and a political climate that enabled the flourishing of organized crime, corruption and illegal migration. The EU first had to stabilize the region after the dissolution of the SFRY and then associate the newly emerged countries. The Stabilization and Association Process was launched in 1999 and granted the countries from the Western Balkans the status of potential candidate countries. In 2003, the Thessaloniki Agenda promoted political dialogue and cooperation in the area of the Common Foreign and Security Policy (CFSP), the strengthening of parliamentary cooperation and institution building (Council of the European Union 2003). The basic starting point for the SAP is the EU's security framework. According to Chris Patten (2002), then EU Commissioner for External Relations:

“The choice for us in this case is very clear: either we export stability to the Balkans, or the Balkans export instability to us. I know which I would prefer.

There is one more lesson I take from the Balkans today: never, never, never give up. Because what is happening in this region today shows how it is possible to turn failed states into successful states, how it is possible to fashion hope out of despair, how it is possible to make a difference. We have a long way to go in the Balkans: but we are getting there.”

Therefore, the EU conditionality policy in the Balkans was designed as a multi-dimensional instrument directed towards reconciliation, reconstruction and reform. In addition to the 1993 Copenhagen criteria, the Western Balkans countries are expected to meet additional criteria that are country-specific and mainly linked to different peace agreements;<sup>6</sup> the promotion of regional cooperation and reconciliation is also expected.

The ‘proverbial carrot’ of future membership in the EU gives the much-needed efficiency to the SAP. By using both positive conditionality entailing the promise of a certain benefit in return for the fulfilment of a predetermined condition, or negative conditionality involving the infliction of a punishment or sanction in the event a specified obligation was violated (the EU has the option to freeze the financial assets for that country when it fails to meet the objectives) the conditionality policy within the Western Balkan countries has been used very effectively in the process of conflict prevention and conflict resolution. In the three cases that will be elaborated below, both the EU’s Special Representatives (EUSRs) as well as the High Representative have played a role.

After the SAP was launched in 1999, on three different occasions the European Union was faced with the possibility of new conflicts in the Balkans. The EU used several incentives in the conflict prevention and conflict resolution in the Balkans: signing the SAA, visa free regimes, candidate status, starting negotiations, as well as the political and personal influence of the High Representative and of specially appointed Special Representatives. The three cases that will be elaborated further are the following: the EU’s role in the latent conflict in the Republic of Macedonia, the process of conflict prevention and the creation of the State Union of Serbia and Montenegro, and finally

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6 UN Resolution 1244; Dayton Agreement; Ohrid Agreement; Belgrade Agreement; Brussels Agreement.

its role in the process of brokering an agreement on normalizing the relations between Serbia and Kosovo.

## The conflict in the Republic of Macedonia

The first country to conclude the Stabilization and Association Agreement in 2001 was the Republic of Macedonia. It was also the third republic of the former SFRY to achieve candidate status.<sup>7</sup> According to Michael Sahlin (2007: 103–108), the former EU Special Representative to the Republic of Macedonia:

"In that sense the political stability, inter-ethnic harmony, progress and ultimately EU accession of Macedonia has become a prestige matter for the EU... Macedonia's crisis and post-crisis experience as well as her initial accession experience... coincides generically and in time with important steps in the evolution of the EU's policies of enlargement and of crisis management institutional and capacity enhancement."

Both the EU enlargement policy and the Common Foreign and Security Policy were influenced and in some ways redefined by EU involvement in Macedonia. Macedonia negotiated the Stabilization and Association Agreement during 1999 and 2000 and the Agreement was due to be signed during the spring of 2001. However, at the beginning of 2001, the country slid into an armed conflict. The Kosovo crisis in 1999 had a huge influence on the region and on the Republic of Macedonia as well. The crisis gave rise to an enormous influx of ethnic Albanian refugees, which threatened the fragile ethnic balance of Macedonia. It damaged the economy and weakened the government (Merlingen and Ostrauskaite 2006: 81). The call of the Albanian minority for greater representation in the state system triggered the conflict in Macedonia that brought the country to the brink of civil war in 2001. The conflict took the EU by surprise and the Swedish Presidency at the time decided to use the closer relationship with the EU as an alternative to war (Giandomenico 2009: 89-112). In the Macedonian case, the EU used the so-called European perspective as a conflict management tool. One of the reasons this conflict

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<sup>7</sup> Slovenia was the first and became a Member State in 2004. Croatia was the second and became a member on 1 July 2013.

management tool was effective was that this approach was accepted by the Macedonian government. Following the intense negotiations and 'shuttle diplomacy' between Skopje and Brussels, the Ohrid Framework Agreement was signed in Ohrid in August 2001.

From that point, besides the essential Copenhagen criteria, the Ohrid Framework Agreement became another tool of measuring the progress that the country makes towards fulfilling the conditions for EU membership, and it was a very important one. For the EU, it was important to achieve success in the Balkans, where it had historically been mainly passive. Therefore, in 2005, despite the fact that Macedonia did not reach the required quality of state administration, elections and other important issues, the EU member states had little option but to grant candidate status because of the progress regarding the implementation of the Ohrid Framework Agreement. Even today, the Ohrid Framework Agreement remains an essential element for democracy and rule of law assessment in the country.

According to Sahlin (2007: 103-108), the EU actions in Macedonia were a very special case of what can be seen as comparatively successful conflict prevention and crisis management. This was a huge investment for the EU. Moreover, European action in Macedonia was closely connected to protecting the Ohrid Framework Agreement as a symbol for the successful conflict management carried out by the EU.

Within the general enlargement process of the EU, the countries were rarely discussed individually. However, EU involvement in Macedonia was vast. The High Representative Javier Solana confirmed this commitment of the EU (Solana 2001):

"The European Union will now redouble its efforts in supporting the implementation of the Ohrid Agreement and will give priority to help bring Macedonia closer to the EU, as foreseen in the Stabilisation and Association Agreement... I will myself continue to help the implementation process where I can, assisted by my Special Representative in Skopje, Alain Le Roy, and in close co-operation with the President and Government and the international community."

In 2004, the society was once again on the brink of another crisis as a referendum was called to put a stop to the process of redistributing the powers from central government to the newly created local authorities, as part of the Ohrid Framework Agreement. The Commission Delegation in Skopje was very active in supporting this process and, using its conditionality policy and the 'carrot' of the candidate status, the EU managed to pressure the government to proceed with what was seen as a painful process of decentralization.<sup>8</sup> Although the granting of candidate status to the Republic of Macedonia in 2005 was seen as recognition of important progress, particularly regarding the inter-ethnic situation, the absence of membership negotiations until this day reflects some serious weaknesses. An additional condition to begin the negotiations was imposed on the Republic of Macedonia: a resolution of the name issue with neighbouring Greece. Once again, the EU member states' inability to reach a consensus on the name issue between the Republic of Macedonia and Greece prolonged the integration process of this small country in the Balkans. The lack of a European perspective opened the way for authoritarianism in Macedonia and contributed towards the building of a captured state phenomenon.<sup>9</sup>

## Saving the State Union of Serbia and Montenegro

After dealing successfully with the conflict in the Republic of Macedonia, but with the fresh memory of the bloody dissolution of the former Yugoslav federation, the EU had an interest in preventing a further break-up of Yugoslavia. This was considered to be quite a controversial issue (Tocci 2007: 78-100). As a federal state constructed by Serbia and Montenegro, the Federal Republic of Yugoslavia (FRY) was created in 1992. One of the imperatives to pursue domestic reforms, to cope with the internal political problems and to proceed with European integration was to have a functional federal state between Serbia and Montenegro. In the autumn of 2001, Belgrade was becoming increasingly willing to allow for a referendum in Montenegro, since there was a growing feeling that Montenegrin independence would put an end to the political and constitutional stalemate. However, at that point in time, Montenegrin

8 The proposed law was designed partly to give communes with an Albanian majority the right of self-governance.

9 This is a description of the country which is given in the Progress Report by the European Commission. It is supposed to designate a state where there is a long-lasting bifurcation of state and the party.

independence was an unwelcome development because the EU was not ready to deal with Kosovo and a new federal state could provide a framework for the reintegration of Kosovo. According to Tocci (ibid.), “the EU feared that the disintegration of the Western Balkans had not yet reached the smallest matryoshka doll and that further fragmentation could have triggered renewed violence and instability in the war-torn region.”

In this case, it was the EU's High Representative Javier Solana who was heavily involved in the negotiations. He was instrumental in brokering the Belgrade Agreement on 14 March 2002. The Agreement gave birth to the state union of Serbia and Montenegro, which was named ‘Solania’ because of Solana's involvement. After two years, it became apparent that the new problematic union arrangement did not resolve the significant political and structural differences between the two republics, but it managed to introduce a three-year period of cooling off before Serbia and Montenegro could start the peaceful separation.

Consequently, Montenegro seceded and declared independence in 2006. Although the State Union between Serbia and Montenegro did not last long, the EU's involvement contributed towards its peaceful dissolution and provided for a relatively tension-free secession of Montenegro.

## **EU in Kosovo after the Lisbon Treaty**

Its failure in the Kosovo conflict in 1999 gave the EU greater incentive to become involved in the process of reconstruction of Kosovo afterwards through different mechanisms. Although, the EU was mainly working in close cooperation with other international organisation in Kosovo, its involvement had different shapes and roles. Primarily, the EU was involved in the fourth pillar of UNMIK which dealt with privatization and regulatory issues and then the establishment of the EU Monitoring Mission. Some emergency programmes were implemented by the European Commission Task Force and then by the newly established European Agency for Reconstruction. By 2004, the EU's High Representative Javier Solana dispatched a personal representative and the European Commission opened a Liaison Office in Pristina.

The violent clashes between the Serb and Albanian communities in

March 2004 made it clear that the *status quo* could not be maintained. The Special Envoy of the Secretary General of the United Nations (UN) to Kosovo, Martti Ahtisaari, and the Head of UNMIK, Kai Eide, urged to have the negotiations on Kosovo's final status opened without delay (Eide 2005). The talks between Belgrade and Pristina began, led by the former Finnish President Martti Ahtisaari, who was assisted by two high ranking EU officials – one from the Council and one from the Commission. Ahtisaari presented his Comprehensive Proposal in March 2007. In his report, Martti Ahtisaari recommended a conditioned independence of Kosovo, supervised by the international community (International Crisis Group 2007). He argued that it was the only option, since the reintegration into Serbia was not viable and the continuation of the international administration was not sustainable (ibid.).

There are numerous discrepancies between the EU member states when it comes to the issue of the Kosovo status. The countries facing problems of national minorities at home (Cyprus, Greece, Romania, Slovakia and Spain) were sympathetic to the Serbian claim for territorial integrity. As the former EU Representative to the final status talks, Stefan Lehne explains: “As long as the Contact Group remained operational, the Council of the EU found it relatively easy to bridge the internal divisions by simply mirroring the Contact Group's positions in its own statements. After [UN Chief Negotiator Martti] Ahtisaari submitted his proposal the EU still managed to agree to support the proposal (which did not explicitly mention independence), while emphasizing the need for a UN Security Council decision” (Lehne 2009), which never came. As the resolution of the issue in Kosovo was of pivotal importance for the EU, which had failed previously in Bosnia and had to leave the driving seat to the United States, High Representative Solana stepped in. He opened up the possibility of by-passing the Security Council Resolution: if Russia, as a traditional partner of Serbia, continued to block the Resolution within the UNSC, then the EU would take its own decision (Koeth 2010: 227-247). He was backed by the then Commissioner for Enlargement Olli Rehn who was stating that “Kosovo is a profoundly European matter” (Rehn 2007).

By the beginning of 2008, it was more than apparent that the authorities in Pristina would declare independence. This fact divided the EU, especially



since five of its member states<sup>10</sup> announced that they would never recognize Kosovo's independence without a new UNSC Resolution. The EU's answer to the forthcoming unilateral declaration of independence by Kosovo was to accelerate the deployment of the mission before the independence, so EULEX would not become involved in a following row over the non-recognition (Papadimitriou and Petrov 2012: 746-763). Deploying the EULEX mission in this manner meant that it was departing from the mission's primary origin as a mission serving the Ahtisaari proposal for Kosovo's supervised independence. This solution, together with the appointment of only one person to serve as both the EU Special Representative and the International Civilian Representative (ICR) in Kosovo<sup>11</sup> showed clearly the EU's systemic shortcomings regarding Kosovo.

Another challenge for the EU after the unilateral declaration of independence by Kosovo was the prevention of a future conflict between the Serbian minority living in Kosovo and Kosovo's Albanian majority. After the International Court of Justice (2010) issued the advisory opinion on Kosovo's declaration of independence in 2010, the EU had another chance in Kosovo. The EU had to find a way to bring both Serbia and Kosovo to the negotiating table to find a way to normalise their relations and to prevent future conflicts. The EU's readiness to facilitate a dialogue between Serbia and Kosovo was welcomed by the UN General Assembly's Resolution 298 (2010).

The talks led by the EU were perceived as a factor for peace, security and stability in the Balkan region. The 'First Agreement on Principles Governing the Normalisation of Relations' between Serbia and Kosovo (the Brussels Agreement) was concluded on 19 April 2013 at the headquarters of the EEAS in Brussels. This deal for normalization of relations between Serbia and Kosovo offers the possibility to close another chapter in the recent violent history of the Balkans. Catherine Ashton's leadership and dedication played a significant role in the positive outcome of the EU-facilitated dialogue. The main incentive for Kosovo offered by the EU was the possible opening of negotiations on a Stabilisation and Association Agreement, while Serbia was offered the prospect of starting membership

10 Cyprus, Greece, Romania, Slovakia and Spain

11 ICR was heading the International Civil Office, which was an institution not mandated by the UN. However, it reported to the International Steering Group of countries that supported Kosovo's unilateral declaration of independence. The ICR mandate ended on 10 September 2012.

talks with the EU. Ashton's efforts were backed by both the Commission and the member states, especially by Germany. At that point, there was a strong consensus among the EU member states that the Kosovo–Serbia relations should be normalized, especially since good neighbourly relations were added as one of the criteria for the advancement on the EU integration path. The Brussels Agreement brought Kosovo closer to signing the Stabilization and Association Agreement with the EU, while Serbia received the 'carrot' of starting the screening process which precedes accession negotiations with the EU. The SAA between Kosovo and the EU came into force in April 2016 and Serbia began the accession negotiations in January 2014.

## Conclusions

Regarding the more difficult security issues, the EU's approach in dealing with them is often perceived as weak. This was once again proven in the case of the conflicts that raged in the Balkans in the past two decades. The war in former Yugoslavia was one of the greatest failures of the EC/EU diplomacy and can be contributed to several factors – lack of suitable mechanisms for conflict prevention and conflict resolution, lack of alertness, lack of institutional capacity when it comes to the EU institutions, as well as the lack of the appeal of the EU membership at that point in time for the Yugoslav republics and the lack of consent of the parties to be mediated by the EU. The EU was faced with the dissolution of SFRY at the inception of its existence at the beginning of the 1990s. The CFSP mechanisms were just starting to build and grow, and the prospect of future EU membership was not as tempting and important as for today's independent republics.

In any case, the EU's efforts were strengthened throughout the years. After the Amsterdam Treaty entered into force in 1999, the EU did score successes in the peaceful resolution of disputes in the Balkans, such as the case of the 2001 Ohrid Framework Agreement and the 2002 Belgrade Agreement. With the Lisbon Treaty entering into force, the EU was equipped with several mechanisms that made it more effective when it came to

the institutional shortcomings of the past. Therefore, the EU-facilitated dialogue between Serbia and Kosovo stands out as a success. It is both the outcome and also the characteristics of the diplomatic process itself that led to the successful Brussels Agreement in 2013. It was a high-level and high-paced diplomatic process. The facilitated dialogue showed that the EU could use the prospect of closer relations as a powerful tool to convince third parties to settle their disputes peacefully.

Finally, the EU still needs to tackle one issue that makes conflict prevention and conflict resolution more time-consuming and sometimes unsuccessful: the lack of unity among member states on how a strategy to tackle and resolve disputes on the borders of the EU should be defined. It is difficult to have a strategy for conflict prevention and conflict resolution abroad when the EU is divided. When the big countries pursue their own interests and the smaller member states block decisions in order to draw attention to their own concerns, the EU can achieve little. One of the reasons for the high-profile failures of EU peace diplomacy during the break-off of the former Yugoslav Federation was the disunity of the member states.

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**Julija Brsakoska Bazerkoska** ([julijab@yahoo.com](mailto:julijab@yahoo.com)) finished her PhD studies *magna cum laude* at Cologne University, Law Faculty in Germany. At present she is working as an Assistant Professor at Ss. Cyril and Methodius University, Law Faculty in Skopje, Macedonia, teaching International Relations, Common Foreign and Security Policy of the EU and Multilateral diplomacy. She was engaged as a researcher under the Curriculum Research Fellowship program at the Central European University in Budapest, Hungary. Moreover, she was part of several EU funded projects within the Albanian Ministry of European Integration, the Skopje's office of the Italian Ministry for Environment, Land and Sea, as well as on several projects within the domestic NGO sector.

**Mišo Dokmanović** ([midok@lawyer.com](mailto:midok@lawyer.com)) is Associate Professor at the School of law, Ss. Cyril and Methodius University - Skopje where he teaches History of Law, Contemporary Macedonian History and the Balkans and American Diplomacy in the 20<sup>th</sup> Century. He has participated in conferences, study visits and lectured in over 50 countries. Dr. Dokmanović was a Research and Visiting Fellow at several leading academic institutions, including the University of Michigan, the University of Florida, the University of Illinois etc. He holds LLM and PhD degrees from Ss. Cyril and Methodius University as well as an MA in Contemporary Diplomacy from the Mediterranean Academy for Diplomatic Studies. In 2014 he was awarded the highest recognition for academic excellence – Scientist of the Year Award. His latest publication is “The Balkans and American Diplomacy in the 20<sup>th</sup> Century”, the first university course-book on US foreign policy published in the Macedonian language. Dr. Dokmanović is President of the Macedonian American Alumni Association.

